

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

ANTONIO CABALLERO 4:21-CV-00140

VS. HOUSTON, TEXAS

VITOL, INC., ET AL JANUARY 11, 2022

TRANSCRIPT OF MOTION PROCEEDINGS HELD REMOTELY
HEARD BEFORE THE HONORABLE ANDREW S. HANEN
UNITED STATES DISTRICT JUDGE

APPEARANCES:

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Proceedings recorded by mechanical stenography,
transcript produced via computer.

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1 P R O C E E D I N G S

2 THE COURT: 4:21-cv-140, Caballero versus Vitol, et al.

3 Who do I have on the line for the plaintiffs?

4 MR. PATRICIOS: Good afternoon. This is Leon Patricios
02:34PM 5 for the plaintiff Antonio Caballero.

6 THE COURT: All right. And for Rosneft?

7 MR. DOLLAR: Good afternoon, Your Honor. This is
8 Steve Dollar from Norton Rose Fulbright for
9 Rosneft Trading, SA; and I also have on the line from our firm
02:34PM 10 Mark Oakes and Ryan Meltzer.

11 THE COURT: All right. And do we have anyone else on
12 the line?

13 MR. PATRICIOS: Your Honor, this is Leon Patricios.
14 Sorry. Two lawyers from my office are listening on the line.
02:34PM 15 We announced it before we got on the call with you.
16 Danit Darmon and Gabriela Rosell.

17 THE COURT: All right.

18 MR. BRACKETT: And yes, Your Honor, this is
19 Alex Brackett on behalf of Vitol. I do not anticipate having
02:35PM 20 an active role as the issues here are primarily between
21 plaintiffs and Rosneft.

22 THE COURT: Okay. Before we get into the nitty-gritty
23 of the discovery dispute, which doesn't look overwhelming at
24 least as far as discovery disputes go, let me ask -- and I'm
02:35PM 25 not asking you to brief it and I'm not going to rule based on

1 anything said on this phone call.

2 But is the fact that FARC has been delisted, does
3 that make a difference at all in this case?

4 MR. PATRICIOS: Yes, Your Honor. I figured you would,
5 Judge. This is Leon Patricios on behalf of Antonio Caballero.

6 It does not make a difference for several reasons
7 which we could brief, but let me just mention quite quickly.
8 The part of the FARC that was delisted was the military, was
9 the political branch, not the part that is running drugs.

10 You will notice the same day that FARC, the
11 political party, was delisted, the government was very clear
12 that those that are still running drugs and doing all of the
13 bad conduct that is at issue here remain blocked and are
14 blocked. That's number one.

15 That portion of the FARC is known as the FARC-EP
16 and we have a judgment against FARC and FARC-EP. So if we were
17 to get into it and brief it, Judge -- and no court has
18 addressed this issue yet, although I think one will -- we do
19 not believe it makes a difference for that reason.

20 Number 2, there's something called the look back
21 rule, which we have briefed in the past, which basically says
22 under OFAC guidance and OFAC regulations, that once you start
23 one of these collections proceedings, if OFAC changes a
24 designation, it does not affect proceedings that are ongoing.

25 It does not affect what's happening in those proceedings and

1 somebody does not automatically get exempt from those
2 proceedings because of such change in circumstance.

3 So a brief answer, Your Honor, no; and obviously
4 if you need further briefing, we could do that.

02:37PM

5 THE COURT: All right. Mr. Dollar, you or Mr. Brackett
6 want to weigh in on that?

7 MR. DOLLAR: This is Mr. Dollar, Your Honor.
8 Mr. Brackett may want to as well.

02:37PM

9 We have set our position out in our general
10 objections to the discovery responses and just to very briefly
11 summarize those for Your Honor -- and happy to brief the issue
12 as well if you need further briefing -- but we would submit
13 that the State Department's de-designation of the FARC has
14 divested the group of its status as a terrorist party and
15 because the Terrorism Risk Insurance Act attachment provision
16 uses the present tense so it says that the blocked assets of
17 that terrorist party shall be subject to execution or
18 attachment in aid of judgment, thus they are no longer
19 subject -- our assets rather are no longer subject to execution
20 or attachment in aid of execution of the judgment and thus our
21 assets are thus beyond the reach of the TRIA and that is our
22 position.

02:38PM

23 There are a host of other issues, Your Honor.
24 One, we believe it's a threshold issue with regard to timing,
25 but I suspect Your Honor will get to that later in today's

02:38PM

1 call.

2 THE COURT: Okay. Mr. Brackett?

3 MR. BRACKETT: We don't have anything to add beyond the
4 positions that have just been laid out. We do not believe that
02:38PM 5 this is as clearly settled an issue as Mr. Patricios indicates
6 and I think, as he indicated, it's really an issue that is yet
7 to be clearly adjudicated, at least from the context of facts
8 such as ours in a procedural posture such as ours.

9 So I do think that what Mr. Dollar just
02:39PM 10 expressed, I think has -- we would agree there is certainly
11 reason to question whether this action is still valid given the
12 de-designation.

13 THE COURT: Let me just ask, you know, a judicial
14 economy question and really it's not economy for me, it's for
02:39PM 15 y'all.

16 Is this something that ought to be briefed and
17 ruled upon before you spend a lot of time running down other
18 items such as, you know, taking depositions and all this other
19 kind of stuff that costs a lot of money?

02:40PM 20 And I'm just throwing this out there. I'm not
21 trying to run your lawsuit for you, but it would seem to me
22 like, you know, all three parties would want to know before
23 they invest a lot of time and money in this.

24 MR. DOLLAR: Your Honor, this is Steve Dollar on behalf
02:40PM 25 of Rosneft. We would be welcome to brief the issue. We would

1 see it as a threshold issue; and as it regards to my client, we
2 think another judicial economy or time-saving and cost-saving
3 exercise would also be to brief the issue as to the timing
4 aspect and that's one that we've laid out in our two-page
02:40PM 5 letter to Your Honor that was submitted as well prior to the
6 call.

7 MR. PATRICIOS: And, Your Honor, this is Leon Patricios
8 on behalf of the plaintiff.

9 We do not agree. In these cases, which are under
02:41PM 10 the TRIA statute, which is a victim maximization of recovery
11 act, we face blockade after blockade after blockade from
12 parties that are designated by OFAC to be blocked parties.

13 One of those parties is Rosneft. It has broken
14 United States law and it will do anything it can to avoid the
02:41PM 15 consequence of that in our view.

16 We have a very, I think, efficient schedule for
17 discovery where we've already done document discovery but for
18 this call. We have a few depositions to take and expert
19 discovery and then we have prehearing briefs due in April.

02:41PM 20 All of those issues could be put into the
21 prehearing briefs in April. We would ask that the case not be
22 stopped while these side issues get decided and I understand
23 that Your Honor is looking at them as essential to the case,
24 but they are going to be central to any case and they're going
02:41PM 25 to be brought up in April anyway.

1 We would ask that we complete the discovery
2 process and the parties can brief them in April as part of
3 their prehearing briefs.

4 THE COURT: Mr. Brackett?

02:42PM

5 MR. BRACKETT: Your Honor, I agree with the position of
6 Mr. Dollar that I think it would be beneficial for the parties
7 and the Court to brief these issues and to allow an opportunity
8 for Your Honor to consider them and consider whether they might
9 be dispositive of the case.

02:42PM

10 THE COURT: All right. Let's switch over then.

11 And Mr. Patricios, since it was your letter that
12 started the ball rolling on this, let's go back to the
13 discovery issues and let's talk about those.

02:42PM

14 MR. PATRICIOS: Yes, Your Honor. I think the principal
15 discovery issue has to do with the time frame that the parties
16 should be using for discovery. In our discovery requests, we
17 used a four-year time frame, basically November 2016 to the
18 present. At this point it's probably five years.

02:42PM

19 The other side, that being Rosneft, wants to use
20 a time frame that is basically just a few months in scope. So
21 we have a dispute over that and we're happy to talk through
22 that, Your Honor. But I think there's also a way to resolve
23 that without asking the Court to decide in the discovery
24 process an issue that's going to be a legal issue for later,
25 that is, what is the proper measuring time frame.

02:43PM

1 And the way we can, I think, Your Honor, resolve
2 that without asking you in the discovery phase to decide that
3 issue is to come up with some interim date that may be
4 reasonable for folks.

02:43PM

5 And what I've suggested to the other side is
6 PDVSA was sanctioned by the United States in January of 2019.
7 Thereafter, the companies in Texas that obey the law did not do
8 business with PDVSA, but Rosneft did in violation of the law.
9 And as a result, it, too, was sanctioned in February of 2020.

02:43PM

10 So a natural date, without anybody setting in
11 stone what the proper date is for measuring an agency or
12 instrumentality; but for discovery purposes a time frame that
13 begins in January of 2019 when PDVSA was sanctioned is a
14 natural date because from that point on, Rosneft should not
15 have been doing business with PDVSA in violation of the
16 United States embargo.

02:44PM

17 So, Your Honor, I throw that out there as a way
18 to resolve this issue without getting into the law, which is
19 certainly going to be briefed to Your Honor as part of the
20 merits of the case.

02:44PM

21 MR. DOLLAR: Your Honor, if I can, it's Steve Dollar.

22 So we think this is a critical threshold issue
23 that is one of timing; and it starts with a case that is cited
24 by the plaintiff, by Mr. Caballero's counsel.

02:44PM

25 And you start with the notion of what they're

1 required to prove and frankly they've already said that they've
2 proven it, which begs the question what we're doing here; but
3 nonetheless, they're required to show that in trying to attempt
4 to show that we are an agent or instrumentality, they have to
5 show one of three things: That we are either a means through
6 which -- Number 1, a means through which a material function of
7 the FARC was accomplished or that we provided material services
8 to or on behalf of or in support of the FARC; or Number 3, we
9 were owned, controlled or directed by the FARC.

10 So that comes from one of their cases. And that
11 determination, as the Fifth Circuit has said and the Second
12 Circuit has said and the Southern District of New York has said
13 and as Supreme Court precedent has said, that determination
14 must be made at the time of the application seeking that
15 designation, so seeking the designation that we, Rosneft, are
16 the agent or instrumentality of the FARC.

17 And if you go through the chronology, Your Honor,
18 you will be reminded that most of the procedural history of
19 this case was done on an *ex parte* basis in Montgomery County.
20 The plaintiff registered their foreign judgment in Texas state
21 court in September of 2020 and then they moved on an *ex parte*
22 basis for an agent or instrumentality determination as to my
23 client on November 25th of 2020.

24 By that time, Your Honor -- so that's where the
25 clock starts. So the case law that we've cited -- and we've

1 seen nothing to contradict it -- the timing aspect begins in
2 November of 2020. At that point in time, my client had been
3 out of business for six months and we've produced documents in
4 regard to this, forwarded minutes from my client that has
5 documented that it wound up its operations in May of 2020, so
6 six months prior to.

7 So while it did do business with PDVSA, as did a
8 lot of U.S. oil majors as we talked about before in our last
9 conference prior to that date, after it wound up operations, it
10 fired all of its employees, it ordered people to return their
11 computers and their mobile phones. We've produced these
12 documents to the plaintiff and it was a dead company as of six
13 months prior to this date upon which Mr. Caballero has to show
14 that we are an agent or instrumentality of the FARC.

15 By the way, the FARC at that point in time had
16 signed a peace accord at the end of 2016 and so we would submit
17 that when we think about the scope of proper discovery, not to
18 mention a dispositive issue in the case, that the proper date
19 on a conservative basis should be November of 2020 and at the
20 earliest, September, when Mr. Caballero registered his foreign
21 judgment in Texas state court. And we think that's where the
22 scope of discovery would lie and not some arbitrary date when
23 my client was no longer in business.

24 MR. PATRICIOS: Your Honor, can I have a brief response
25 to that?

1 THE COURT: You can.

2 MR. PATRICIOS: Your Honor --

3 THE COURT: Mr. Brackett, I'm assuming you don't have a
4 dog in this fight or do you?

02:48PM

5 MR. BRACKETT: Your Honor, that's correct. We do not
6 currently have a dog in this fight.

7 THE COURT: Okay. All right. Then Mr. Patricios,
8 please continue.

9 MR. PATRICIOS: Thank you, Judge.

02:48PM

10 You just heard counsel recite to you a three-part
11 test for what makes up to be an agent or instrumentality of a
12 terrorist. All of those are past tense.

13 We can show that Rosneft was a means by which a
14 material function of the terrorist party is accomplished;
15 provided materials, services to and in support of the terrorist
16 party; or was owned or controlled or directed by the terrorist
17 party. All of those are past tense.

02:48PM

18 The case law is clear there is no temporal
19 limitation on providing assistance to terrorists, otherwise
20 what could Rosneft do or others do? Just shut down shop. They
21 did. They closed down and said, well, we can avoid the
22 consequences of our prior act because we shut our shop down and
23 therefore if you happen to file your case against us afterwards
24 even though we're blocked and even though our assets are
25 blocked and available under TRIA that has no temporal

02:48PM

02:49PM

1 limitation, we are free and clear.

2 Judge, the case law is clear and we have cited in
3 our papers and it's *Stancil* from the Eleventh Circuit which
4 affirmed the Middle District of Florida, which was explicit.
02:49PM 5 It said that you can go after the assets of a person or entity
6 that is or was ever involved in or assisted money laundering
7 that is a nexus or had past dealings with the FARC.

8 The Southern District of Florida has said, quote,
9 there is no temporal limitation on providing assistance to
02:49PM 10 terrorists.

11 Now, that is the prong under which we are going
12 under. The cases that they cite and the ones that are from the
13 United States Supreme Court have to do with whether an entity
14 is owned or controlled, which is not the test that we're going
02:49PM 15 under.

16 When you're looking at whether an entity is owned
17 or controlled, i.e., what do the stock books say, that is
18 looking at a temporal requirement. And the cases, if we get
19 into it, Judge, are all jurisdiction cases. All of these cases
02:50PM 20 having to do with under the FSIA, the Federal [sic] Sovereign
21 Immunities Act, all have to do with whether this Court has
22 subject matter jurisdiction and the timing of when those cases
23 are brought are crucial.

24 As Your Honor knows from a diversity perspective
02:50PM 25 or removal perspective, you have to measure jurisdiction at the

1 time the case is filed so the cases cited by counsel that use
2 that same test have to do with ownership, which is not the test
3 we're going under. It's not what we're looking for here.
4 We're not alleging anybody was owned.

02:50PM

5 In those cases ownership is relevant because you
6 need to establish jurisdiction on a particular day and that's
7 why those are important.

02:50PM

8 Now, the peace accord that they keep referencing
9 is just -- it's just not relevant. They continue today to act
10 as terrorists. They continue today to run drugs. The
11 United States attorney general and the United States attorney
12 for the Southern District of New York indicted Mr. Maduro and
13 others in 2020 for working with the FARC and running drugs.

02:51PM

14 So the peace accord again is the political branch
15 of the FARC, not the drug. That's another branch. But we've
16 got affidavits that show that the political branch is separate
17 from the drug-dealing branch.

02:51PM

18 So, Your Honor, this is a crucial issue. We do
19 agree with counsel on that, and we certainly believe this will
20 be part of the briefing for Your Honor in April.

02:51PM

21 For discovery purposes, they can show you nothing
22 that says with regard to the material assistance that we're
23 saying occurred here that there is some time limitation;
24 otherwise their chronology would be that there is no document
25 to produce because they were out of business by the time we

1 filed this case.

2 THE COURT: And the basis for your suggestion of a 2019
3 date was?

4 MR. PATRICIOS: The basis of my suggestion of a 2019
02:52PM 5 date, Judge, was that was when PDVSA itself was put on the
6 block, the list, and thereafter the companies in the
7 United States, especially in Texas, stopped doing business with
8 PDVSA, but Rosneft continued to do business with PDVSA and
9 therefore itself was blocked.

02:52PM 10 So, Your Honor, to the extent that we are
11 alleging that they assisted in money laundering, the most
12 natural time frame to look would be when no other company was
13 doing work with PDVSA because they were blocked and that is the
14 time frame I suggested as a compromise, which would have been,
02:52PM 15 I think, January of 2019 to the present.

16 THE COURT: All right. Go ahead, Mr. Brackett.

17 MR. DOLLAR: This is Mr. Dollar.

18 THE COURT: I'm sorry. Mr. Dollar.

19 MR. DOLLAR: Very quickly, Your Honor, just two quick
02:52PM 20 points.

21 So, one, I would beg the Court's patience and ask
22 perhaps for some clarifying briefing on the subject just
23 because I want to make sure there's a clear record. And just
24 to use Mr. Patricios' indication of the *Stancil* case to
02:53PM 25 indicate something that is not, I just want to be clear that

1 the Court in that case expressly based its agent or
2 instrumentality finding on the fact that the defendant -- so
3 the Rosneft in that case -- the defendant was a member of the
4 North Valley Cartel money laundering network -- so that's the
02:53PM 5 terrorist organization in that case -- at the time that the
6 writ was ordered, issued and served. That's at Page 2 of that
7 opinion.

8 So that's exactly what we're talking about, that
9 the finding of whether or not a particular party is an agent or
02:53PM 10 an instrumentality of any other organization, of a terrorist
11 organization, that analysis must be conducted at the time that
12 such an application is sought and here that's November of 2020
13 when we had ceased our operations six months prior to.

14 Now, again, there is a September date where
02:54PM 15 Mr. Caballero perfected his judgment in Texas state court --
16 that's September -- and we have offered to search for and
17 produce documents that were responsive to his discovery request
18 and we've produced, I think, about 900 pages of documents at
19 this point in response to those.

02:54PM 20 But prior to that, we do not see where a scope
21 for a prior time period is justified. We have not seen any
22 other legal authority that would justify the same; and we think
23 this is a threshold issue, Your Honor.

24 THE COURT: Okay. Let's go to the next issue,
02:54PM 25 Mr. Patricios, of your letter, the second one.

1 MR. PATRICIOS: Sure, Your Honor.

2 The next issue is intrinsically tied with the
3 first with just one twist. We have had many requests for
4 production interrogatories that asked specifically for
02:54PM 5 communications between Rosneft and PDVSA and Venezuelan
6 government officials and Libre Abordo, which is a company that
7 OFAC alleges replaced Rosneft.

8 When Rosneft was sanctioned and had to shut down,
9 a company stepped in for it, Libre Abordo, and did, according
02:55PM 10 to OFAC, the same role using the same mechanisms and maybe even
11 using the same people and so we wanted in discovery just
12 communications for the relevant time frame, however you were to
13 frame that, between Rosneft and PDVSA, Rosneft and Venezuelan
14 government officials.

02:55PM 15 Our request in our meet and confer, we said we
16 would narrow them to a narrower time frame, but that seeks
17 relevant information. Our allegation -- and we think we have
18 at least an affidavit on file from the former Assistant
19 Secretary of State and we've also got one from Mr. McBrien that
02:55PM 20 suggested that what Rosneft was doing was assisting PDVSA in
21 its activities, which, in fact, was money laundering for the
22 FARC.

23 Because we're going to have a trial over it,
24 Judge, and because they're insisting they didn't do any of
02:56PM 25 these things, we're asking the relevant questions. Well, show

1 us your communications with these relevant people.

2 THE COURT: All right. Mr. Dollar.

3 MR. DOLLAR: Okay. Your Honor, I think there's a
4 number of different grounds.

02:56PM

5 One, we have to remember that as of today -- and
6 I believe it was said in our prior hearing and it was said in
7 the papers that were submitted to the Court -- Mr. Caballero
8 believes that he satisfied his evidentiary burden at this point
9 to show that Rosneft is an agent or instrumentality of the
10 FARC. Clearly we disagree with that and there will be -- there
11 may be a trial on that issue.

02:56PM

12 So that would then key whether or not it is
13 disproportionate in cost for us to go chase down what we see
14 are very broad, very vague terms within the requests
15 themselves. We're being asked to produce documents related to
16 the Venezuelan government. What does that mean to particular
17 individuals without any identification of who they might be?

02:56PM

18 And that's setting aside these timing issues,
19 Your Honor. Our client has no employees and is a dead
20 corporation and, you know, there's nothing that we can see that
21 would justify moving that date back past, as I said, before,
22 September of 2020.

02:57PM

23 THE COURT: When did Rosneft go out of business?

24 MR. DOLLAR: May of 2020. And we've submitted the
25 board minutes, Your Honor, of the company at the time that took

02:57PM

1 through that the board ordered the company to wind down its
2 operations; it ordered the laying off of all the employees, and
3 it ordered all of the employees to return their computers,
4 their mobile phones; so that the company was effectively wound
02:58PM 5 down. And that latest date --

6 And it's Page 2, Mr. Patricios, if you see the
7 documents that we produced to you.

8 The latest date, Your Honor, is May 12th of 2020.

9 MR. PATRICIOS: And, Your Honor, this is
02:58PM 10 Leon Patricios.

11 They were sanctioned on February 28, 2020, and
12 then started to wind down business, but that does not mean that
13 they're absolved from their conduct or they can't have their
14 assets taken by a terrorism victim because they remain blocked
02:58PM 15 to this day by OFAC. They have not been taken off of the list
16 by OFAC because they've magically disappeared.

17 And it can't be that a company can just stop the
18 business and somehow wipe the slate clean from its conduct,
19 otherwise every company that is being accused of these things
02:58PM 20 will just reconstitute itself.

21 So I don't think they're saying that they get a
22 free pass because they went out of business. I think they're
23 saying from a discovery point of view, that it's relevant.
24 Well, then they have nothing to produce if they have nothing
02:59PM 25 after May 2020. That may be the case.

1 But they haven't said, Judge, that there's
2 thousands of e-mails or thousands of documents making it a
3 burden here. We don't even know if there's ten e-mails with
4 the government officials of Venezuela or ten e-mails with
02:59PM 5 PDVSA. They haven't told us why it's burdensome for them to
6 search. And we think it's a very narrow time frame.

7 And then the last issue, Judge, is we asked for
8 the e-mails of Libre Abordo, which we think is the entity that
9 took over the exact routes they were using and that's according
02:59PM 10 to OFAC.

11 So if there's e-mails with Libre Abordo as to how
12 to take over those routes and how to violate U.S. sanctions, we
13 think that's relevant.

14 THE COURT: Okay. Let's go to the third part of your
02:59PM 15 request or your letter.

16 MR. PATRICIOS: Yes, Your Honor.

17 The third part is something that Mr. Brackett
18 just mentioned, and I think it's an important point. We have
19 asked. They, Rosneft, claims it is not an agency or
02:59PM 20 instrumentality of the FARC and/or of PDVSA; and we have asked
21 them for the evidence that they think supports that.

22 Their response has been and it is our position
23 that we've already made our evidentiary burden that they are.

24 So, Your Honor, the reason we've got this request
03:00PM 25 out there, it's like a criminal trial. If we're going to put

1 on our evidence and they're going to do nothing but attack our
2 evidence like a criminal defendant could and then put on no
3 case in chief on their side or no defense on their side, well,
4 then that's fine. They've got nothing to produce. They're not
5 going to put any evidence on at trial, they're just going to
6 attack our evidence, then that's fine. They've got nothing to
7 produce to us.

8 But they are saying the opposite position.
9 They're taking the position that they're not an agency or
10 instrumentality and if they're going to put on evidence at
11 trial, we're entitled to it.

12 Recently Judge Moore in the Southern District of
13 Florida faced a similar situation from a victim of terrorism
14 versus a terrorist or agency or instrumentality. We put forth
15 affidavits, they put forth nothing.

16 Judge Moore said, well, you haven't rebutted the
17 findings I've already made and therefore the issue has been
18 decided by me and you are an agency or instrumentality.

19 So we have met our evidentiary burden because
20 we've obtained that finding by a court and that has stood. If
21 they want to just attack our evidence, then I think there's
22 nothing to ask for in this request.

23 If they're going to put on evidence that they
24 believe establishes they're not an agency or instrumentality,
25 just as a criminal defendant would as to that person's

1 innocence, we think we're entitled to that evidence.

2 THE COURT: Okay. Mr. Dollar.

3 MR. DOLLAR: Your Honor, this is a little bit of a
4 head-scratcher if I may. So we hear that they've taken the
03:01PM 5 position that they have met their evidentiary burden and so
6 then it behooves us -- obviously we have to participate in
7 discovery. We have. We've done so in good faith and we've met
8 and conferred on the issues. We have produced documents in
9 response to their requests.

03:02PM 10 So I don't know what else there is to do with
11 this discovery dispute. If they believe they have the evidence
12 that they need to go to trial, to submit or to meet their
13 burden of proof as they've said they've already done, isn't
14 discovery over and why are we wasting our time?

03:02PM 15 I just -- I don't know how else to say it.
16 Clearly if there's going to be a document, we understand the
17 rules. If there's going to be a document that we would submit
18 at trial, it would be produced to the other side. We have
19 participated in the discovery process and we think that the
03:02PM 20 issues are framed at this point.

21 THE COURT: All right. Mr. Patricios, you want to
22 cover the last one, the Swiss privacy laws?

23 MR. PATRICIOS: Yes. And, Your Honor, I think based on
24 the representations of the letter we received, that is off the
03:03PM 25 table. When we had our meet and confer, we did not yet have

1 their documents and they informed us they did not think they
2 were going to take any documents out because of the Swiss
3 privacy laws, that they would merely redact people's phone
4 numbers and addresses.

03:03PM 5 And as it turns out, when we got the production,
6 that's what they did. We just couldn't tell from the
7 production whether they'd actually withheld any documents and
8 now they've represented in the letter to you that they have not
9 based on the Swiss privacy laws and we're fine with the
03:03PM 10 redactions they made because it's basically people's personal
11 information.

12 So that one, Your Honor, has been, I think,
13 resolved by the correspondence before you.

14 THE COURT: Okay. All right. Here is what I'm going
03:03PM 15 to order. With regard to the time frame, I'm going to order
16 them to produce documents from February of 1919 [sic] forward.

17 With regard to the third problem, the relevancy,
18 to me this isn't quite ripe. I mean, if you're in Mr. Dollar's
19 position, I mean as far as he's concerned, every document he
03:04PM 20 has proves they're not, you know, in conspiracy with FARC.

21 So I'm not ordering one way or the other on that,
22 although, Mr. Dollar, I am going to hold you to the fact that
23 before we get to trial, this is, you know, something you're
24 going to have to respond with regard to here are the documents
03:05PM 25 we think are relevant.

1 And then with regard to the second paragraph
2 request, Mr. Patricios, I think this is too broad. I mean,
3 let's narrow this request and maybe it may be the way it's
4 phrased in this paragraph because I'm looking at your letter.
5 I'm holding your letter in my lap.

03:05PM

6 I mean, this seems much too broad to me. Can we
7 narrow this request, not necessarily in terms of, you know,
8 like Venezuelan government officials, but I mean, you know, you
9 don't need every paragraph, e-mail or whatever that Rosneft
10 sent to every Venezuelan official. I mean, you know, it might
11 be something about passports or something.

03:05PM

12 MR. PATRICIOS: We can narrow it, Judge. To the oil
13 transactions at issue, we can narrow it.

14 THE COURT: All right. Why don't y'all see if you can
15 work that out, but I think Number 2 is much too broad.

03:06PM

16 So if you and Mr. Dollar would get together and I
17 think eventually this is going to come to a head and I think
18 we're teeing the ball up for April when we'll decide the issue
19 of what the de-designation means and some of these other issues
20 about whether this lawsuit goes forward with trial.

03:06PM

21 All right. My law clerk thought I said 1919.
22 I'm sorry if I did. I don't want all your World War I
23 documents.

24 MR. PATRICIOS: Judge, we all understood 2019. You did
25 say 1919, but I think we all understood you meant 2019.

03:07PM

1 THE COURT: Sorry. Senior moment, guys.

2 All right. Is there anything else that we can
3 resolve today?

4 MR. PATRICIOS: Not on behalf of the plaintiff,
03:07PM 5 Your Honor. Thank you.

6 THE COURT: Mr. Dollar? Mr. Brackett?

7 MR. DOLLAR: Nothing right now, Your Honor.

8 MR. BRACKETT: Nothing, Your Honor.

9 THE COURT: All right. All right. If you can't reach
03:07PM 10 an agreement on Number 2, you know, let's send an e-mail to
11 Rhonda Hawkins, my case manager, and we'll reconvene.

12 But let's narrow it to the issues that are at the
13 heart of this lawsuit or at least at the heart of the claims of
14 the lawsuit.

03:08PM 15 All right. Thank you, Counsel.

16 MR. PATRICIOS: Thank you, Judge.

17 (The proceedings were adjourned.)

18 * * * *

19 REPORTER'S CERTIFICATE

20 I, Lanie M. Smith, CSR, RMR, CRR, Official
21 Court Reporter, United States District Court, Southern District
22 of Texas, do hereby certify that the foregoing is a true and
23 correct transcript, to the best of my ability and
understanding, from the record of the proceedings in the
above-entitled and numbered matter.

24 /s/ Lanie M. Smith
25 Official Court Reporter

/		
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